

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
APR 14 2005

**United States District Court**

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

DAVID J. MALAND, CLERK  
BY  
DEPUTY \_\_\_\_\_

ROBERT L. DIAZ

§

§

V.

§

CASE NO. 4:04cv155  
(Judge Schell/Judge Bush)

§

Commissioner of Social  
Security Administration

§

§

**MEMORANDUM ADOPTING REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

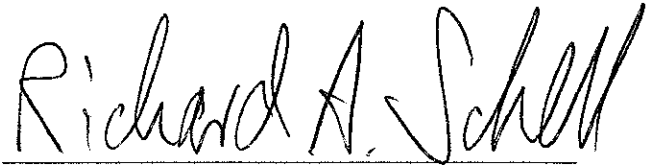
Came on for consideration the Report of the United States Magistrate Judge in this action for judicial review of the administrative denial of social security disability insurance benefits, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On March 23, 2005, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendation that the decision of the commissioner should be reversed and remanded.

As neither party has filed objections to the Report and Recommendation, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED, ADJUDGED** and **DECREED** that the decision of the Commissioner shall be and is hereby **REVERSED** and the cause **REMANDED** with instructions that the Administrative Law Judge consider all medical opinions, take

vocational testimony, and properly evaluate the evidence in the record. All motions by either party not previously ruled on are hereby **DENIED**.

**SIGNED** this 13<sup>th</sup> day of April, 2005.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written in a larger, more prominent script, followed by "A." and "Schell". The signature is positioned above a horizontal line.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE